

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jaimie Vernon	Team: Squad #10	CCRB Case #: 201503103	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/18/2015 1:45 AM	Location of Incident: West 207th Street and Broadway	Precinct: 34	18 Mo. SOL 10/18/2016	EO SOL 10/18/2016	
Date/Time CV Reported Wed, 04/22/2015 4:31 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 04/22/2015 4:31 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM William Beattie	02878	938046	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robert Stapleton	17814	953444	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM William Beattie	Abuse: PO William Beattie frisked § 87(2)(b)	
B.POM William Beattie	Abuse: PO William Beattie searched § 87(2)(b)	
C.POM William Beattie	Abuse: PO William Beattie searched the car in which § 87(2)(b) was an occupant.	

## Case Summary

On April 22, 2015, the CCRB received the complaint of § 87(2)(b) who presented his complaint in person, providing a sworn statement (Board Review 01). § 87(2)(b) alleged the following:

Four days prior, on April 18<sup>th</sup>, § 87(2)(b) and his girlfriend, § 87(2)(b) were driving in the vicinity of West 207<sup>th</sup> Street and Broadway in Manhattan at 1:45AM. The two had previously stopped at a CHASE bank and intended to stop at the McDonald's restaurant located at the intersection. As he drove up to the restaurant, he was pulled over by PO William Beattie and PO Robert Stapleton, both of the 34<sup>th</sup> Precinct.

PO Beattie approached § 87(2)(b) who sat in the driver's seat, and asked him why he had been double-parked "over there". § 87(2)(b) assumed that PO Beattie was referring to his brief stop at the CHASE bank, where he admitted to double-parking as he went to the ATM. PO Beattie mentioned, "This is a high drug neighborhood," and pointed out that § 87(2)(b) had tinted windows and a busted taillight as well. PO Beattie then asked § 87(2)(b) for his license and registration, which § 87(2)(b) provided.

PO Beattie then returned to his patrol car to run the license, and then returned to § 87(2)(b) who remained inside the car. He asked § 87(2)(b) to step outside, after which he frisked § 87(2)(b)'s legs and arms (**Allegation A**). He then searched § 87(2)(b)'s jeans and jacket pockets, finding a wallet and some money (**Allegation B**). He then asked § 87(2)(b) to step outside of the car, and she complied. PO Stapleton had the two civilians stand at the back of § 87(2)(b)'s car while PO Beattie searched the vehicle, opening the glove compartment and looking under each seat, among other areas (**Allegation C**).

PO Beattie found, as he looked under the driver's seat, a small knife that § 87(2)(b) had previously intended as a gift to § 87(2)(b) for her protection. PO Beattie recovered the knife, declaring it a Gravity knife. Though § 87(2)(b) insisted that it was not, he was arrested for § 87(2)(b) (Arrest Report, Board Review 02). He was released shortly upon arrival at the stationhouse with a DAT (Board Review 03). § 87(2)(b) was not charged with any VTL infractions.

§ 87(2)(b) provided a statement over the phone that corroborated all of § 87(2)(b)'s allegations (Board Review 04).

## Mediation, Civil and Criminal Histories

As § 87(2)(b) was released with a DAT, mediation was pitched to him. However, he did not respond. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

## Civilian and Officer CCRB Histories

This is § 87(2)(b)'s first and only CCRB complaint. PO Beattie has been a member of the service for nine years. In CCRB case number 200717508, a frisk allegation made against him was

substantiated. However, the NYPD imposed no discipline § 87(2)(g) ..

## **Findings and Recommendations**

### **Allegations not pleaded**

- § 87(2)(g)

### **Allegation A – Abuse of Authority: PO William Beattie frisked § 87(2)(b)**

It is undisputed that PO Beattie frisked § 87(2)(b) after he asked § 87(2)(b) to step out of his car. § 87(2)(b) alleged that PO Beattie patted down his legs and arms, despite having no noticeable bulges in his clothing and the fact that he cooperated with PO Beattie's request for his license and registration (Board Review 01). § 87(2)(b) stated that she saw PO Beattie frisk § 87(2)(b)'s pants, waist, and chest (Board Review 04). PO Beattie admitted to frisking § 87(2)(b) citing the need to ensure officer safety (Board Review 07). However, at the time of the frisk, PO Beattie had not yet found the knife, nor was § 87(2)(b) yet placed under arrest.

PO Beattie provided the following account of the events leading up to the frisk. § 87(2)(g)

PO Beattie alleged that he frisked § 87(2)(b) after seeing him make a “furtive movement” upon being stopped and after he lied to the officers about being at 150 Vermilyea Avenue. He alleged that when he and PO Stapleton first observed § 87(2)(b) § 87(2)(b) had double-parked in front of 150 Vermilyea Avenue, which is a well-known drug spot in the precinct (Board Review 07). The officers saw § 87(2)(b) exit his car and go to a group of men standing in front of the building, whom the officers believed were “drug-steerers,” the people who direct customers to the drug dealers in the area. However, the men, who appeared to see the officers sitting in their unmarked sedan, waved § 87(2)(b) off. The officers could not hear what was said between § 87(2)(b) and these men, nor did they see any items exchanged between § 87(2)(b) and the men. However, they did see, when § 87(2)(b) returned to his car after the men waved him off, § 87(2)(b) go right back to the men, who waved him off again. § 87(2)(b)'s interaction with these men lasted but a few minutes.

The officers then decided to follow § 87(2)(b) as he drove away. When § 87(2)(b) failed to make a left turn signal, the officers pulled him over. As PO Beattie walked up to § 87(2)(b)'s seat, he saw § 87(2)(b) reach to the floor of his car, to the right of his driver's seat, and then straighten back up again, which PO Beattie recorded as a “furtive movement”. When PO Beattie asked § 87(2)(b) why he had been parked in front of the drug spot, § 87(2)(b) lied and said that he had gone to a bodega to buy ice cream for his girlfriend. This too, raised PO Beattie's suspicion, and he marked this exchange on his handwritten “Stop, Question, and Frisk” Report (Board Review 08).

When PO Beattie confronted him on this lie, § 87(2)(b) continued to say that he had gone to the bodega. This prompted PO Beattie to ask § 87(2)(b) to step out of the car and frisk him. PO Beattie said that he frisked § 87(2)(b)'s legs, arms, chest, and abdomen, noting that § 87(2)(b)

§ 87(2)(b) had been wearing a long T-shirt over loose-fitting pants, which, the officer worried, might possibly conceal a weapon.

PO Stapleton confirmed PO Beattie’s observations about § 87(2)(b) approaching the drug-steerers twice and lying to PO Beattie about why he had been there. However, he did not see § 87(2)(b) reach to the floor of his car, nor did he remember what exactly § 87(2)(b) had been wearing (Board Review 09).

In *People v. Debour* (1976; 40 N.Y.2d 210; 352 N.E.2d 562; 386 N.Y.S.2d 375), the New York State Court of Appeals ruled that an officer can frisk a suspect if they have a reasonable suspicion that the suspect is armed (Board Review 10).

An exception to this general rule applies when an officer already has moved to arrest the defendant. NYPD Patrol Guide Procedure 208-03, “Arrests - General Processing” states that, after effecting arrest and placing the defendant in handcuffs, an officer must frisk or search the prisoner for weapons, contraband, or other arrest evidence (Board Review 11). Additionally, the Patrol Guide Procedure 208-05, “Arrests – General Search Guidelines,” exhorts officers to frisk or search defendants upon arrest to ensure officer safety during transport (Board Review 12).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

**Allegation B – Abuse of Authority: PO William Beattie searched § 87(2)(b)**

Both § 87(2)(b) and § 87(2)(b) alleged that PO Beattie searched § 87(2)(b) s pants pockets after frisking him but before § 87(2)(b) had been arrested (Board Review 01 and Board Review 04). PO Stapleton did not believe PO Beattie searched § 87(2)(b) until after

§ 87(2)(b) had been arrested (Board Review 09). PO Beattie first stated that he did not recall searching § 87(2)(b) immediately after the frisk, but later admitted that he might have performed a “quick search” of his pockets to ensure that he had no weapon (Board Review 07). However, PO Beattie found nothing of consequence.

§ 87(2)(g)

In *People v. Diaz* (1993, 81 N.Y.2d 106, 612 N.E.2d 298, 595 N.Y.S.2d 940), the N.Y. State Supreme Court ruled that once an officer performs a frisk of a person and finds nothing indicating that that person is armed, that officer cannot proceed to search the person for a weapon or other evidence (Board Review 13). *People v. Williams* (1995, 217 A.D.2d 1007; 629 N.Y.S.2d 607), decided by the same court, affirmed *People v. Diaz* and added that even if a frisk were to have revealed an object hidden in someone’s clothing, an officer must first determine if that object poses a risk to officer safety (i.e. if the object resembles a weapon) before searching the defendant (Board Review 14).

§ 87(2)(g)

**Allegation C – Abuse of Authority: PO William Beattie searched the car in which § 87(2)(b) was an occupant.**

It is undisputed that PO Beattie searched § 87(2)(b)’s car after frisking § 87(2)(b) and asking § 87(2)(b) to step out of the vehicle. § 87(2)(g)

§ 87(2)(b) alleged that PO Beattie opened the glove compartment and looked under each seat, finding a small knife that § 87(2)(b) had under the driver’s seat (Board Review 01). The knife was not in plain view, and § 87(2)(b) was arrested only for § 87(2)(b) and not for any VTL infraction. § 87(2)(b) alleged that PO Beattie performed the same actions as § 87(2)(b) had claimed, also stating that he opened the center console (Board Review 04). She had not seen the knife exposed in the car, remembering that the last time she saw it was when § 87(2)(b) had presented it to her as a gift a long time before, but that she had refused it.

PO Beattie claimed that, after frisking and searching § 87(2)(b) he saw the holder of a Gravity knife wedged between the rail of the seat frame and the “hump” near the gear shift on the floor. The area where he saw the knife appeared to be the same area that § 87(2)(b) seemed to be reaching toward when PO Beattie first approached him (Board Review 07). After seeing the knife, he entered the vehicle and recovered it, confirming that it was a Gravity knife by flicking it open. While in the car, he searched the “reachable-grabbable” areas of the driver’s seat, including

the driver's footwell, the front passenger's footwell, and under each seat. He denied searching any compartments, but believed that he might have opened the center console after § 87(2)(b) had been arrested and placed in cuffs.

PO Stapleton stood at the back of the car with § 87(2)(b) and § 87(2)(b) while PO Beattie performed the search. He was unsure of the areas that PO Beattie searched, but believed that he looked only in the area around the driver's seat and front passenger's seat. PO Beattie searched the glove compartment and center console after § 87(2)(b) had been arrested (Board Review 09). PO Beattie would later show PO Stapleton the knife after concluding the search. As PO Stapleton concentrated on detaining § 87(2)(b) and § 87(2)(b) he was not engrossed in the search and could not provide many concrete details regarding it.

In *People v. Torres* (1989; 74 N.Y.2d 224), the N.Y. State Court of Appeals ruled that an officer must have probable cause to search the closed containers of a vehicle for a weapon. The officer must have a reason to believe that anything in the vehicle would pose a threat to their safety (Board Review 15). However, the state Supreme Court ruled that if an object, such as a weapon, is in "plain view," the object can be removed, and the closed containers within the vehicle can subsequently be opened (see *People v. Diaz*, cited above).

§ 87(2)(g)  
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Team: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date